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CHARLES ELMORE CROPLEY

In the

Supreme Court of the United States

OCTOBER TERM, 1950

No. 398

HARRY F. MURPHY and EARL J. BOUGHAN, TRUSTEES; MIRIAM HORN KELLEY, a WIDOW; MURIEL KELLEY RISSER, joined Pro Forma by her HUSBAND, FRED P. RISSER: EVELYN TAYLOR KELLEY OWEN, joined Pro Forma by her HUSBAND, ROBERT B. OWEN; JOHN EDGAR KELLEY, a MINOR, by his next FRIEND, ROBERT B. OWEN: and EDNA D. KELLEY, a WIDOW,

Petitioners,

v.

MAY KELLEY SCHNEIDER, a WIDOW,

Respondent.

REPLY BRIEF OF RESPONDENT IN OPPOSITION TO THE PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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Petitioners,

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Respondent.

REPLY BRIEF OF RESPONDENT IN OPPOSITION TO THE PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

To the Honorable Chief Justice and the Associate Justices of the Supreme Court of the United States:

Respondent submits the following in opposition to the petition for writ of certiorari and in reply to the petitioners' brief in support thereof.

I.
QUESTION PRESENTED

The basic question presented by the petitioners is whether there was consideration for the conveyance by Arthur B. Kelley of his complete title, both legal and equitable, to his one-half interest in the land through the medium and according to the terms of the Henderson deeds; because if (as held by the Court of Appeals) the Henderson transaction shows a legal consideration for the conveyance (by Arthur B. Kelley of his own undivided one-half interest) through the medium of Charles H. Henderson to himself and his sister May Kelley Schneider for the period of their joint lives, with the remainder over to the survivor of them, no question of resulting trust arises and the question posed by the petitioners must fall.

II.
REASONS FOR OPPOSING THE WRIT

1. As a matter of general law, which is also the law of Texas in this instance, there was consideration for the Henderson deeds. In the language of the opinion by the Court of Appeals "the Henderson transaction itself evidences a legal consideration."

Consideration has been defined as "a benefit to the party promising, or a loss or detriment to a party to whom the promise is made." "Benefit" as thus employed, means that the promisor has, in return for his promise, acquired some legal right to which he would not otherwise have been entitled, and "detriment" means that the promisee has, in return for the promise, foreborne some legal right which

he otherwise would have been entitled to exercise. *17 C. J. S. 420, Section 70.*

The respondent had a right on March 27, 1937, to require her trustee Arthur B. Kelley to convey to her the legal title to her undivided one-third equitable interest in the lands. In accordance with an agreement with her trustee, she substituted for that right the privilege of becoming a grantee in a deed whereby, through the conduit Henderson, there was conveyed to herself and Arthur for the period of their joint lives, with the remainder to the survivor of them, the title to the land *in complete fulfillment and performance of the agreement.* This was both a detriment and a benefit to May and both a detriment and a benefit to Arthur. This is governed by the general law relating to trusts and by the general law relating to consideration. *12 Am. Jur. 570, Section 79; United States v. Linn, 15 Pet. (U. S.) 290; 10 Law Ed. 742.*

The courts of Texas recognize and follow the general rule. *Jones v. Osbolt, 46 S. W. 2d 422, error refused; Security Drilling Co. v. Rathke Oil Co., 41 S. W. 2d 1019, 1022; Mayfield v. Eubanks, 278 S. W. 243, 246; McGary v. Campbell (Tex. Civ. App.), 245 S. W. 106, 116.* We quote from the *Mayfield v. Eubanks case* as follows:

> "A valuable consideration may be either a benefit to the promisor or a detriment to the promisee, or a surrender by the promisee of some legal right the latter was not otherwise bound to surrender."

Also from the *McGary v. Campbell case:*

> "Valuable consideration, in the sense of law, may consist of some right, interest, profit or benefit ac-

> cruing to one party, or some forbearance, loss or responsibility given, suffered or undertaken by the other. Page on Contracts, Section 514, p. 84; 6 R. C. L. Section 67, p. 654; Keitt v. Gresham (Tex. Civ. App.), 174 S. W. 884."

The question of May's acceptance under the Henderson deed is not raised. Having accepted, she was bound by the provisions of the deed wherein she was named as a grantee.

Quoting from *Greene v. White, 137 Tex. 361, 153 S. W. 2d 575, 583; 136 A. L. R. 626:*

> "The general rule is that the grantee in a deed accepted by him is a party to the deed, even though he does not sign it, and that he is concluded by recitals in the deed and by reservations contained therein in favor of the grantor. Martin v. Roberts, 57 Tex. 564, 568; Orbeck v. Alfei, Tex. Civ. App., 276 S. W. 947; 21 Corpus Juris, p. 1095, Sec. 81; 19 Am. Jur., p. 627, Sec. 29, p. 624, 626.
>
> "The obligations undertaken by the parties to a deed are binding contractually; and where the conveyance is by way of deed poll—that is, one executed by the grantor alone—obligations are enforceable against the grantee by virtue of his acceptance of the deed."

In the *Orbeck case*, cited above by the Supreme Court of Texas, is found the following:

> "When a contract between two parties is reduced to writing and signed by one of them and accepted by the other, it becomes, in contemplation of law, a written contract, and will be so treated by the courts of this state."

The testimony of the respondent was taken (at the instance of the petitioners) by written interrogatories at her home in California (her health not permitting her to be present at the trial) and the testimony of Anne M. Duffy, the Notary, who took the acknowledgments to the deeds and received instructions to send them to record, was taken by deposition at the instance of the petitioners. The Court of Appeals could weigh and construe this written testimony, being as free in that regard as the trial court. Previous to the execution of the deeds Arthur had written a letter to his sister May, the respondent, which is quoted in full in Note 3 to the opinion of the Court of Appeals. (R. 897-898.) The text of the letter is shown in Appendix (1) to this brief.

The Court, in its opinion, also quoted from respondent's testimony. This quotation is set out in the Appendix (2).

Her written testimony was corroborated by the deposition testimony of Anne M. Duffy. (R. 621-623 and R. 624-626.) There was no testimony showing or tending to show that respondent knew of any intent or purpose on the part of her brother Arthur other than expressed in the general warranty deeds themselves. The Court of Appeals held that as a matter of law the deeds were supported by consideration. While the question of consideration is not a local question to be determined by local laws, yet the cited decisions of the Supreme Court of Texas support the holding of the Court of Appeals.

Petitioners cite the case of *Clegg v. Brannan, 111 Tex. 367, 234 S. W. 1076*, and *American Nat. Ins. Co. v. War-*

nock, 131 Tex. 457, 114 S. W. 2d 1161. These are cases where the Texas Statute of Frauds and executory contracts were involved. Petitioners do not here invoke that statute as a ground for their petition.

2. The Court of Appeals held "the form of the transaction effected as to Arthur B. Kelley and May Kelley Schneider a termination of the trust as to them, parties to the transaction."

The execution and consequent termination of the trust required no consideration moving from the beneficiary to the trustee for the beneficiary was entitled (without exaction) to have the trust executed *as directed or consented to by her.* Equity would not countenance a rule that this beneficiary could complain when the conveyance was made as consented to by her, emphasized by the fact that as one of the grantees she accepted the deed. The doctrine of equitable estoppel would be liberally applied. Both the trustee and the beneficiary with full knowledge permitted the matter to rest in unchallenged confirmitory repose for the six intervening years from 1937 when the deeds were executed to 1943 when the trustee died.

Section 342, Restatement of the Law, Trusts, announces the true rule with reference to "conveyance by trustee to or at the direction of the beneficiary." The authority states:

> "(1) Except as stated in Subsection (2) (dealing with inalienable beneficial interests) if there is a sole beneficiary who is not under an incapacity and the trustee transfers the trust property to him or at his direction * * * the trust terminates although the

purposes of the trust have not been fully accomplished."

And in the same Section 342 at Paragraph "b" under "Comment" it is stated:

"If the trustee transfers the trust property to a third person with the consent of the beneficiary who is not under an incapacity, the trust is terminated and the trustee is under no liability for making the transfer."

It is stated in *Lewin on Trusts, 1st Am. from 8th Eng. Ed. by Flint, 684:*

"The cestui que trust may call upon the trustee to execute conveyances of the legal estate as the cestui que trust directs."

In *Moore v. City of Waco, 85 Tex. 206, 211; 20 S. W. 61,* the Texas Supreme Court announced the right of the beneficiary "to call upon the trustee to execute such conveyances of the legal estate as he directs." It follows that the interest of the respondent was included in the Henderson deeds. She consented and accepted and is bound. The supposition brought forward by petitioners as to what would have occurred had May died first assumes a non-production of the facts, but that assumption fails because Arthur, the survivor, could have supplied the facts as his surviving sister has here done, and her heirs or devisees, being bound by her act, would fail. The supposition has no argumentitive value.

3. Consideration for the Henderson deeds being established, no further question is posed by the petition.

III.

ADDITIONAL COMMENT

We deeply regret the statement of petitioners' counsel on page 16 of their brief that "her selfish and dishonest scheme thus makes a mockery of the laws of Texas." It is entirely out of place, however viewed. After proving by their witnesses that Arthur B. Kelley was "a man of character and integrity who would not wrong or cheat or defraud any one knowingly," they, with apparent anger, seek in effect to smear *him* over the shoulders of his adoring and trusting sister regardless of the sentiments entertained by all who knew and exalted him as disclosed by the record. There was no charge in pleading or proof of fraud, accident or mistake. We cannot pass by without protesting the unwarranted reflection upon respondent lady, even though it has no bearing upon the questions involved. For this diversion we crave the indulgence of the court.

IV.

CONCLUSION

Having established that respondent's equitable interest in the lands was conveyed by her trustee as directed, consented to and accepted by her and that there was adequate consideration for the Henderson deeds, it follows:

(a) That the false premise of an existing resulting trust upon which the petitioners bottom their case falls, and

(b) That Article 1288 Revised Civil Statutes of the State of Texas (dealing with instruments of conveyance) is not adversely pertinent or relevant to the controversy.

Justice does not require that the petitioners be relieved of the conclusive effect of the judgment in the Court of Appeals. General law has been correctly applied; no local law has been overturned. Respondent respectfully prays that the petition for writ of certiorari be denied.

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WM. Q. BOYCE,
Counsel for Respondent.

APPENDIX

(1)

Text of letter from Arthur to May, June 24, 1936. (Note 3, Court of Appeals Opinion, R. 897-898.)

"Dear May:

"Enclosed you will find statement regarding Texas and Kansas lands. All of that property is in my name, deeded to me by mother and father before father went to the hospital in 1918. Brother John, while in financial trouble, released his share to me in consideration of money I had loaned him and his quit claim deed paper is among the mill files. Could you send me the form of deed used in California, whereby the property is in the name of two or more people and transfers itself. I don't know whether such deeds are acceptable in Kansas and Texas. All well here. Hope all well there."

(2)

Quotation by Court of Appeals of respondent's testimony given in response to written interrogatories propounded by petitioners (R. 899-900):

"There were several discussions between Arthur B. Kelley and myself about the conveyances of the Kansas and Texas lands from Arthur to Charles H. Henderson and from Charles H. Henderson to Arthur and myself. These discussions were several days before the date the deeds were signed, which date was on March 27, 1937. Arthur talked with me about having the property conveyed in that way several times before he talked with Charles H. Henderson. Then one day in my presence he told Bert (Charles H. Henderson) the way he wanted the deeds prepared. The deeds which were signed on March 27, 1937 were prepared the way Arthur told Bert to have them prepared. The discussions took place between Arthur and myself, except for Arthur's direction to Bert as to how the deeds were to be drawn. In these discussions my brother

Arthur told me that he wanted to convey the property to Bert and to have Bert convey the property to me and himself (Arthur). Trusteeship was not mentioned. Arthur told me that he wanted to fix it so that when one of us died the one who was still living would own the property. He told me that he had written to me about deeds of that kind a few months before. He told me that if he conveyed the property to Bert and then Bert conveyed it to him (Arthur) and myself, with the right words, if he died first I would own all of the property, and if I died first he would own all the property. He asked me if that was agreeable to me, and I told him it was. I do not remember the exact dates that these conversations took place, except that they took place there at the hospital before the day the deeds were signed. I was there at the hospital a great deal with Arthur. I was there in the room when the deeds were signed."

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SUPREME COURT OF THE UNITED STATES

October Term, 1960

No. 598

HARRY F. MURPHY and RAINE J. REUSSMAN, Trustees,
MIRIAM HORN KELLEY, a Widow; MURIEL KELLEY
RISSER, joined pro forma by her husband, FRED P. RIS-
SER; EVELYN TAYLOR KELLEY OWEN, joined pro
forma by her husband, ROBERT S. OWEN; and ED-
GAR KELLEY, a minor, by his next friend, ROBERT S.
OWEN; and EDNA H. KELLEY, a Widow,

Petitioners,

vs.

MAY KELLEY SCHNEIDER, A Widow,

Respondent.

ANSWER OF PETITIONERS TO REPLY BRIEF OF RESPONDENT

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1950

No. 398

HARRY F. MURPHY and EARL J. BOUGHAN, Trustees; MIRIAM HORN KELLEY, a Widow; MURIEL KELLEY RISSER, joined pro forma by her husband, FRED P. RISSER; EVELYN TAYLOR KELLEY OWEN, joined pro forma by her husband, ROBERT B. OWEN; JOHN EDGAR KELLEY, a minor, by his next friend, ROBERT B. OWEN; and EDNA D. KELLEY, a Widow, *Petitioners,*

vs.

MAY KELLEY SCHNEIDER, A Widow, *Respondent.*

ANSWER OF PETITIONERS TO REPLY BRIEF OF RESPONDENT

To the Honorable Chief Justice and
The Associate Justices of the Supreme Court of
The United States:

Petitioners respectfully submit this Answer to the Reply Brief of Respondent herein.

I.

One of the basic contentions of the Petitioners herein is that there was no consideration for the Henderson deeds. By its Findings of Fact Nos. 13, 14 and 15 (R. 116) the Trial Court, upon the evidence before it,

found that there was no consideration whatever. The Court of Appeals, disregarding the provisions of Article 1288 of the Revised Statutes of Texas, held, as a matter of law, that the deeds on their face showed consideration in the form of a conveyance by May Kelley Schneider to Arthur B. Kelley of her equitable title to the land in controversy.

Respondent, in her Reply Brief (Ps. 3, 5 & 7), asserts in this Court the alleged oral agreement with the trustee, Arthur B. Kelley, under which she says the Henderson deeds were executed and delivered. She asserts (Reply Brief P. 7) "the supposition brought forward by petitioners as to what would have occurred had May died first assumes a non-production of the facts" which Arthur "could have supplied * *". Thus she confesses that the alleged oral agreement asserted by her is a necessary element for her to establish to prevail in this controversy. Respondent by asserting the alleged oral agreement is, of necessity, asserting that the Henderson deeds do not on their face alone carry the equitable title of Respondent and that the question of consideration must be answered by looking beyond the face of the deeds.

Respondent entirely overlooks the fact that, in making Findings of Fact Nos. 13, 14 and 15 (R. 116) that *no consideration whatever* passed from any of the parties to the Henderson deeds to any other party, the Trial Court rejected as untrue the testimony of Respondent relating to the asserted agreement and found as a fact that the asserted agreement had never been made. "* * * The findings of fact by a trial court

must receive such a construction as will uphold, rather than defeat, its judgment. * * *" *Clyde Equipment Co. vs. Fiorito* (C.C.A., 9th) 16 F. (2d) 100.

Respondent also overlooks the fact that the Court of Appeals expressly did not set aside any of the Findings of Fact and that the Findings of Fact stand.

In truth, Respondent ignores Question 1 of the Petition For Writ of Certiorari, thus admitting the correctness of our contentions. Respondent makes no attempt whatever to support the holding of the Court of Appeals that the oral acceptance of the Henderson deed by Respondent was "in legal effect the same as an execution thereof," thus admitting also the correctness of our contentions in Question 2 of the Petition For Writ of Certiorari.

Arthur B. Kelley knew that his brother, John, owned an undivided interest in the equitable title to the land in controversy (Finding No. 10, R 114, 115). The Henderson deeds purported to convey the complete title to all of the property in controversy (Finding No. 12, R 115). Arthur B. Kelley either conveyed the property in trust or he was party to a deliberate scheme to appropriate for himself and Respondent the interest of John M. Kelley in the land. The agreed high character of Arthur B. Kelley is consonant only with a conveyance by him in trust and is entirely inconsistent with the position of the Respondent herein.

The Court of Appeals, by holding that the trustees of John M. Kelley were entitled to his one-sixth interest in the equitable title to the land in controversy (R 897), recognized that the Henderson deeds could

not be enforced in accordance with their terms. From this it seems clear to us that an inquiry into the facts and circumstances surrounding the execution of the deeds is necessary to determine their legal effect.

II

Respondent's contention, on Pages 6 and 7 of her Reply, that her equitable title to the land in controversy was included in the Henderson deeds because of an asserted oral direction to the trustee, is directly in the face of Article 1288 of the Revised Statutes of Texas and of the decision of the Supreme Court of Texas in *Cauble vs. Worsham*, 96 Tex. 86, 70 S.W. 737 There, the father, D. B. Cauble, held title to land as trustee for his daughter, Mrs. Kirkpatrick. The daughter sold the property, receiving from the buyer the sale price and orally requested her father, the trustee holding the legal title, to convey the land to the buyer which he did. Later, the daughter conveyed by quitclaim her interest in the property to another person. It was held that the buyer from the daughter held the superior equitable title as her father, the trustee, could not convey her interest. The Supreme Court of Texas said (70 S.W. at Ps. 738-739):

> "It is provided by article 624, Rev. St. 'no estate of inheritance or freehold' shall be conveyed unless by writing * * *. From this it seems evident that Mrs. Kirkpatrick acquired an estate in the land which could not be conveyed by D. B. Cauble, and which could only be legally conveyed by herself and her husband. *It is urged that because her right was not a legal, but only an equitable, one, she could legally authorize the conveyance of it by*

her father by deed passing his legal title. But no such distinction between conveyances of legal and equitable estate is admissible under our statutes. Masterson vs. Little, 75 Tex. 697, 13 S.W .154; Sprague v. Haines, 68 Tex. 217, 4 S.W. 371. *Since her father could not by his mere deed pass her title, a conveyance by her was necessary, and that conveyance could not consist of her parol agreement* either that she would or that her father might convey * * *." (Emphasis ours.)

CONCLUSION

We respectfully submit that the law of Texas applicable to the ownership of land in Texas and the conveyance thereof is a matter of general and vital concern to all persons owning or acquiring land in Texas; that the decision of the Court of Appeals herein does violance to that law; and that as a precedent the decision is of such general importance that it should be corrected by this Honorable Court.

PRAYER

WHEREFORE, Petitioners pray as in their Petition For Writ of Certiorari.

Respectfully submitted,

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Supreme Court of the United States

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No. 398.

HARRY F. MURPHY and EARL J. BOUGHAN, Trustees; MIRIAM HORN KELLEY, a Widow; MURIEL KELLEY RISSER, joined pro forma by her husband, FRED P. RISSER; EVELYN TAYLOR KELLEY OWEN, joined pro forma by her husband, ROBERT B. OWEN; JOHN EDGAR KELLEY, a minor, by his next friend, ROBERT B. OWEN; and EDNA D. KELLEY, a Widow,
Petitioners,

vs.

MAY KELLEY SCHNEIDER, a Widow,
Respondent.

REJOINDER OF RESPONDENT TO PETITIONERS' REPLY TO RESPONDENT'S BRIEF.

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MAY KELLEY SCHNEIDER, a Widow,
Respondent.

REJOINDER OF RESPONDENT TO PETITIONERS' REPLY TO RESPONDENT'S BRIEF.

To the Honorable Chief Justice and the Associate Justices of the Supreme Court of the United States:

To the Answer of Petitioners to the Reply Brief of Respondent the Respondent offers the following rejoinder:

I.

Although we realize that this Honorable Court is heavily burdened and that there must be an end to all debates, we feel that our duty to the Court and to our client requires that we analyze and distinguish the case of *Cauble* v. *Worsham,* 96 Tex. 86, 70 S. W. 737, cited by Petitioners.

The fundamental distinction between the *Cauble Case* and the case at bar is that in the *Cauble Case* Mrs. Kirkpatrick was a married woman at the time of the conveyance there involved, whereas Mrs. Schneider was a widow at the time of the execution and delivery of the Henderson deeds in 1937, her husband having died in 1936 (R. 656). We say this distinction is vital under the Texas law because *Article 1299 of Vernon's Annotated Texas Civil Statutes* (which is substantially the same as Article 635 referred to in the *Cauble Case*) requires that the husband and wife shall join in the conveyance of the wife's separate real estate and that no such conveyance shall take effect until the same shall have been acknowledged by the wife privily and apart from her husband and the acknowledgment certified in accordance with Articles 6605 and 6608 of the Texas Statutes. Text of Statutes is set out in the Appendix.

Turning to the *Cauble Case* we find that the property there involved was the separate property of Mrs. Kirkpatrick (page 738 of 70 S. W.). The legal title to the land was vested in Mrs. Kirkpatrick's father, D. B. Cauble. At Mrs. Kirkpatrick's request her father conveyed the land to DeChaumes. Later Mrs. Kirkpatrick and her husband conveyed the land to Columbus Surginer. The title litigation was between the respective claimants under DeChaumes and Surginer. Our Supreme Court held that

the claimant under Surginer had the superior title because *Mrs. Kirkpatrick could convey her separate property only by deed in which she was joined by her husband and acknowledged in the manner required by Texas Statute.* In their quotation from the Court's Opinion the Petitioners have substituted asterisks for the following language appearing in the first sentence of the quotation:

> "and by Article 635 that 'the husband and wife shall join in the conveyance of Real Estate, the separate property of the wife' and that the deed shall be separately acknowledged by the wife."

Asterisks are again used at the end of the quotation, the last sentence having been left dangling. The last sentence of the quotation in full is as follows:

> "Since her father could not, by his mere deed, pass her title, a conveyance by her was necessary, and that conveyance could not consist of her parol agreement either that she would or that her father might convey, for the reason that the statute *requires a particular kind of conveyance to divest her separate real estate.*"

Here the death of Mrs. Schneider's husband removed her disabilities of coverture, and made the deed executed by Arthur, Trustee, holder of the legal title, pursuant to her oral request, binding upon her. *Ashby* v. *Standard Pipeline Company,* (Tex. Civ. App.) 56 S. W. 2d 218, 223, Writ of Error Refused by Texas Supreme Court, wherein the Court says:

> "One who holds an equitable interest in land is bound by a sale of such land by the Trustee at his request, even though such request not be in writing."

Inasmuch as Mrs. Schneider was not under the disability of coverture at the time of the Henderson deeds,

we say that the reasons announced in the *Cauble Case* for holding that the claimant under the Surginer deed had superior title to the claimant under the DeChaumes deed do not apply.

We reiterate, the Court of Appeals has correctly held that the Henderson deeds themselves show a contractual consideration and that the only issue in the case was whether there was consideration for such deeds.

Respectfully submitted,

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APPENDIX.

Art. 1299—Conveyance of Separate Lands of Wife.

The husband and wife shall join in the conveyance of real estate, the separate property of the wife; and no such conveyance shall take effect until the same shall have been acknowledged by her privily and apart from her husband before some officer authorized by law to take acknowledgments to deeds for the purpose of being recorded, and certified to in the mode pointed out in articles 6605 and 6608. Acts, 1897, p. 41; G. L., Vol. 10, p. 1095.

Art. 6605. Acknowledgment of married woman.

No acknowledgment of a married woman to any conveyance or other instrument purporting to be executed by her shall be taken, unless she has had the same shown to her, and then and there fully explained by the officer taking the acknowledgment on an examination privily and apart from her husband; nor shall he certify to the same, unless she thereupon acknowledges to such officer that the same is her act and deed, that she has willingly signed the same, and that she wishes not to retract it. Acts, 1846, p. 156; P. D. 1003; G. L., Vol. 2, p. 1462.

Art. 6608. Form by a married woman.

The certificate of acknowledgment of a married woman must be substantially in the following form:

"The State of _____,

"County of _____,

"Before me, _____ (here insert the name and character of officer) on this day personally

appeared ....., wife of .....,
known to me (or proved to me on the oath of .....) to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said ....., acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

(Seal) "Given under my hand and seal of office this ..... day of ..... A. D., ...

....."